

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH TYLER LITTLEFIELD,

Plaintiff,

v.

MCHAFFIE, et al.,

Defendant.

CASE NO. 3:21-cv-05470-DGE-BAT

**ORDER DENYING MOTIONS TO  
EXCLUDE DECLARATION AND  
TO COMPEL DISCOVERY**

Plaintiff, Joseph Tyler Littlefield, filed a *pro se* 42 U.S.C. § 1983 civil rights action against several DOC officials and employees. Dkt. 27. Plaintiff is currently incarcerated at the Washington State Penitentiary. He filed his § 1983 complaint in June 2021 and an amended complaint in November 2021. On March 18, 2022, Defendants filed a motion for summary judgment. Dkt. 48.

On April 1, 2022, Plaintiff filed two motions. First, Plaintiff moves to exclude the declaration of Shawn Vasconcelles that was submitted in support of summary judgment. Dkt. 57. Plaintiff contends the declaration which regards Plaintiff's medical records is an invasion of privacy and violates prison policy and state law. *Id.* The Court rejects this contention because Plaintiff alleges in his amended complaint that Defendants caused him to suffer several health-related issues including excessive weight loss, dizzy and fainting spells, emotional distress, and

1 high blood pressure. *See* Amended Complaint, Dkt. 27 at 21. The Vasconcelles declaration was  
2 submitted to show otherwise. By placing his health at issue, Plaintiff has waived the  
3 confidentiality of his prison health records as to this lawsuit. *See e.g., Warner v. Velardi*, 2017  
4 WL 3387723, at \*2 (S.D. Cal. Aug. 7, 2017) (citing *Fritch v. City of Chula Vista*, 187 F.R.D.  
5 614, 625-26 (S.D. Cal. 1999), modified on other grounds, 196 F.R.D. 562 (S.D. Cal. 1999);  
6 *Ferrell v. Glen-Gery Brick*, 678 F.Supp. 111, 112-13 (E.D. Pa. 1987) ("when a party places his  
7 or her physical or mental condition in issue, the privacy right is waived."). "Privacy rights in  
8 medical records are neither fundamental nor absolute." *Whalen v. Roe*, 429 U.S. 589, 603-604  
9 (1977). The holder of a privacy right can waive it through a variety of acts, including by written  
10 authorization or instituting a lawsuit. *Id.* As Plaintiff alleges Defendants harmed his health, and  
11 has placed his health directly at issue, the Court DENIES Plaintiff's request to exclude evidence  
12 submitted by Defendant to show otherwise.

13 Plaintiff also moves to compel Defendants to answer requests for admissions. The motion  
14 indicates Defendants responded to Plaintiff's requests last year. Plaintiff argues the responses are  
15 insufficient but does not identify which specific requests are at issue and why the answers are  
16 insufficient. The Court declines to address a motion lacking specificity as to what requests and  
17 answers are at issue. The motion also indicated Plaintiff tried to contact Defendants' lawyer, but  
18 defense counsel declined to meet "without a series of steps" which Plaintiff believed were  
19 unnecessary and impractical. Dkt. 58 at 5. The last time the issue of discovery arose, the only  
20 steps defense counsel asked Plaintiff to undertake was "to send me his specific issues prior to me  
21 scheduling the phone call." Dkt. 42 at 5. Because Plaintiff's motion fails to provide sufficient  
22 specificity upon which the Court can rule, and because Plaintiff has not shown he has properly  
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1 met and conferred with opposing counsel before filing this motion the Court DENIES the  
2 motion.

3 For the foregoing reasons, the Court ORDERS:

4 (1) The motion to exclude the declaration of Shawn Vasconcelles, Dkt. 57, is  
5 **DENIED.**

6 (2) The motion to compel answers to admissions, Dkt. 58, is **DENIED.**

7 (3) The clerk shall provide copies of this order to the parties.

8 DATED this 4<sup>th</sup> day of April, 2022.

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11 BRIAN A. TSUCHIDA  
12 United States Magistrate Judge  
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